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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,775	05/24/2001	Yoshio Nakamura	F-6999	4305

7590

09/09/2004

Jordan and Hamburg
122 East 42nd Street
New York, NY 10168

EXAMINER

PENDLETON, BRIAN T

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/864,775

Applicant(s)

NAKAMURA ET AL.

Examiner

Brian T. Pendleton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) 2-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 2-5 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in the reply filed on 7/8/2004.

2. Applicant's election with traverse of Species I (claim 1) in the reply filed on 7/8/2004 is acknowledged. The traversal is on the ground(s) that the species are so closely related that a search in either group would essentially be identical and that efficiency of prosecution would be served by removal of the restriction requirement. This is not found persuasive because the search would be identical. The species contain different configurations of elements, of which each configuration requires a distinct search and search strategy. Proceeding in such fashion would not result in an efficient prosecution of the case.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Twiney et al, US Patent 4,953,217 (hereinafter referenced as Twiney). In figure 1, Twiney discloses a noise reduction system comprising microphone 5, anti-buffet filter 6, loop stabilization unit 7, low pass filter 8, amplifier 12 and loudspeaker 14. The noise reduction system is an active system for

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reducing the level of acoustic noise within earphone structures (column 1 lines 4-8) which reads on “An active noise control system for reducing an undesirable noise”. Microphone 5 detects noise within the earphone adjacent to ear 2 which reads on “a noise detector for deriving an input signal representative of the undesirable noise”. Loop stabilization unit 7, which is coupled to the microphone, comprises a phase inverter 72 and voltage limiting circuit 76 (see column 4 lines 22-28). Phase inverter 72 reads on “an interfering wave signal generator for processing the input signal to produce an interfering wave signal for generating a noise canceling wave” wherein the signal from phase inverter 72 is a noise canceling wave since it is inverted in phase to the noise signal detected by microphone 5. Voltage limiting circuit 76 limits high amplitude input signals with a threshold set by a zener diode switching arrangement (column 4 lines 26-28). The limited signal is then amplified by amplifier 12 outputting an amplified interfering wave signal. The amplified interfering wave signal will always have an amplitude equal to or less than a specified output signal amplitude threshold that is specified by the zener diode in the voltage limiting circuit 76. The voltage limiting circuit 76 and amplifier 12 thereby read on “a limiting amplifier having a specified output signal amplitude threshold for outputting amplified interfering wave signal having an amplitude equal to or less than the specified output signal amplitude threshold”. Loudspeaker 14 reads on “an electrical acoustic converter for propagating the noise canceling wave”.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bose et al, US Patent 4,455,675; Klippel, US Patent 5,577,126.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian T. Pendleton whose telephone number is (703) 305-9509. The examiner can normally be reached on M-F 7-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


btp

BRIAN PENDLETON
PATENT EXAMINER